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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

U.S. DISTRICT COURT

WILLIAM J. MESICH,

Plaintiff,

v.

No.: 03 CV 50410

OFFICER WOODY (Star #53 of the  
Belvidere Police), Personally; SERGEANT  
MARTIN (Star #37 of the Belvidere Police),  
Personally; OFFICER HOPKINS (of the  
Belvidere Police), Personally,

Defendants.

DOCKETED

JAN 10 2005

**MOTION OF DEFENDANTS TO STRIKE**  
**PLAINTIFF'S RESPONSES TO DEFENDANTS' REQUEST TO ADMIT**

NOW COME the Defendants, SHANE WOODY and ANTHONY MARTIN, by and through one of their attorneys, BASILEIOS J. FOUTRIS, and respectfully request this Honorable Court to strike the untimely responses of the Plaintiff to the Defendants' Request to Admit and order that the untimely responses are deemed admitted. In support thereof, the Defendants state as follows:

1. On October 18, 2004, the Defendants propounded upon the Plaintiff their First Request to Admit Facts Upon the Plaintiff. (See Defendants' First Request to Admit Facts Upon the Plaintiff, attached hereto as Exhibit 1).

2. The Federal Rules of Civil Procedure specifically provide that when requests to admit are propounded upon a party, "The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may allow or as the parties may

agree to in writing, subject to Rule 29, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by the party's attorney." (Federal Rules of Civil Procedure, Rule 36).

3. On December 31, 2004, the undersigned received a letter from the Plaintiff indicating that the Plaintiff was sorry about the delay in providing responses to the Request to Admit. (See Letter of December 30, 2004, attached hereto as Exhibit 2).

4. Enclosed with the letter was the Plaintiff's Response to the Defendants' First Request to Admit Facts. (See Plaintiff's Response to Defendants' First Request to Admit Facts, attached hereto as Exhibit 3).

5. During the last court appearance, the Plaintiff requested an extension of time to answer the Defendants' written discovery. The Court allowed the Plaintiff an extension of time to respond to that written discovery.

6. As a point of clarification, the undersigned specifically requested whether the extension was confined to the interrogatories and requests for documents that were propounded upon the Plaintiff, or whether the requested extension included the Defendants' First Request to Admit Facts that were propounded upon the Plaintiff. This Court explained to the undersigned, as well as to the Plaintiff and his standby attorney, that the order only pertained to the interrogatories and requests for documents. The Court further explained that the Request to Admit was not confined within that order and were to be answered within the time provided by the Rules. The Plaintiff did not request an extension of time to respond to the Defendants' First Request to Admit Facts.

7. Substantial prejudice will result to the Defendants if the Plaintiff is allowed to deny the facts through his belated responses. The facts posited to the Plaintiff, and admitted due to the untimely response, essentially establish that the Plaintiff has no claim. Based only upon the admitted facts, the Defendants are of the belief that the Plaintiff's claim would properly be subject to dismissal by way of summary judgment. If the Plaintiff is allowed to now deny those facts, the Defendants will have to expend a great deal of time, money and resources in order to establish these facts by way of other discovery methods.

WHEREFORE, the Defendants, SHANE WOODY and ANTHONY MARTIN, respectfully request this Honorable Court to strike the untimely responses of the Plaintiff to the Defendants' First Request to Admit Facts, thereby deeming the requests admitted.

Respectfully submitted by,



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BASILEIOS J. FOUTRIS, One of the Attorneys  
for Defendants SHANE WOODY and  
ANTHONY MARTIN

KNIGHT, HOPPE, KURNIK & KNIGHT, L.L.C.  
2860 River Road – Suite 400  
Des Plaines, Illinois 60018-6009  
(847) 298-8000

**CERTIFICATE OF SERVICE**

The undersigned, one of the attorneys of record herein, certifies that the original of the foregoing **MOTION OF DEFENDANTS TO STRIKE PLAINTIFF'S RESPONSES TO DEFENDANTS' REQUEST TO ADMIT** was filed with the Clerk of the U.S. District Court; and a copy thereof was served upon the following, by depositing the same in the U.S. Mail, first-class postage prepaid on the 7th day of January, 2005:

Mr. William J. Mesich  
9010 Roach  
Brookfield, IL 60513

Mr. Theodore Liebovich  
Liebovich & Webber, P.C.  
415 South Mulford Road  
Rockford, IL 61108

  
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BASILEIOS J. FOUTRIS

KNIGHT, HOPPE, KURNIK & KNIGHT, L.L.C.  
Attorneys for Defendants SHANE WOODY  
and ANTHONY MARTIN  
2860 River Road – Suite 400  
Des Plaines, Illinois 60018-6009  
(847) 298-8000

## EXHIBITS

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

WILLIAM J. MESICH,

Plaintiff,

v.

No.: 03 CV 50410

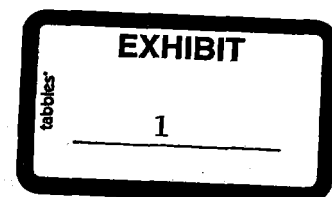
OFFICER WOODY (Star #53 of the Belvidere  
Police), Personally; SERGEANT MARTIN  
(Star #37 of the Belvidere Police), Personally;  
OFFICER HOPKINS (of the Belvidere Police),  
Personally,

Defendants.

**DEFENDANTS' FIRST REQUEST TO ADMIT FACTS UPON THE PLAINTIFF**

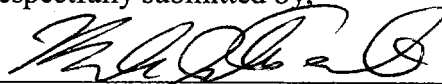
NOW COME the Defendants, SHANE WOODY and ANTHONY MARTIN, by and through one of their attorneys, BASILEIOS J. FOUTRIS, and, pursuant to Rule 36 of the Federal Rules of Civil Procedure, submit their First Request to Admit Facts Upon the Plaintiff, William J. Mesich, as follows:

1. On September 20, 2001, William J. Mesich was on the roadway riding a bicycle with no lights on the front of the bicycle.
2. On September 20, 2001, William J. Mesich was on the roadway riding a bicycle with no lights on the rear of the bicycle.
3. On September 20, 2001, William J. Mesich was directed to stop riding his bicycle by Belvidere Police Officers but ignored the direction and began riding off on his bicycle.
4. On September 20, 2001, William J. Mesich refused to comply with directions given by Belvidere Police Officers.



5. On September 20, 2001, William J. Mesich resisted attempts by Belvidere Police Officers to take William J. Mesich into custody.
6. On September 20, 2001, William J. Mesich had in his possession an illegal controlled substance.
7. On September 20, 2001, William J. Mesich had in his possession an envelope containing cannabis.
8. On September 20, 2001, William J. Mesich sustained no injuries during his interaction with any Belvidere Police Officers.
9. At no time in September of 2001 did William J. Mesich sustain any injuries due to his interactions with any Belvidere Police Officers.
10. On September 20, 2001, William J. Mesich was turned over to the custody of the Boone County Sheriff's Department, and William J. Mesich did not have any injuries due to his interaction with Belvidere Police Officers.

Respectfully submitted by,



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BASILEIOS J. FOUTRIS, One of the Attorneys for  
Defendants SHANE WOODY and  
ANTHONY MARTIN

KNIGHT, HOPPE, KURNIK & KNIGHT, L.L.C.  
2860 River Road – Suite 400  
Des Plaines, Illinois 60018-6009  
(847) 298-8000

**CERTIFICATE OF SERVICE**

The undersigned, one of the attorneys of record herein, hereby certifies that a copy of the foregoing **DEFENDANTS' FIRST REQUEST TO ADMIT FACTS UPON THE PLAINTIFF** was served upon the following, by depositing same in the U.S. mail, first-class postage prepaid this 18th day of October, 2004:

Mr. William J. Mesich  
9010 Roach  
Brookfield, IL 60513

Mr. Theodore Liebovich  
Liebovich & Webber, P.C.  
415 South Mulford Road  
Rockford, IL 61108

  
\_\_\_\_\_  
BASILEIOS J. FOUTRIS

KNIGHT, HOPPE, KURNIK & KNIGHT, L.L.C.  
Attorneys for Defendants SHANE WOODY  
and ANTHONY MARTIN  
2860 River Road – Suite 400  
Des Plaines, Illinois 60018-6009  
(847) 298-8000



William Mesich  
9010 Roach  
Brookfield, IL 60513

December 30, 2004

To: Basileios Forutris  
2860 River Road #400  
Des Plaines, IL 60018

Dear Mr. Forutris,

Please find enclosed my response to your Request to Admit.

Sorry about the delay in getting this to you. Please understand that I have been under some personal adversity and this was the first opportunity I had to receive the assistance that I require to have completed this task.

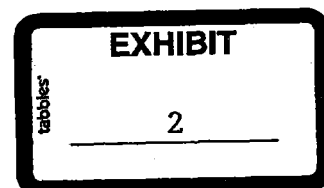
I will provide you with a further response to your interrogatories as well I anticipate I will be able to provide to you interrogatories of my own early in January of 05.

If you have any question or concern regarding this matter you may phone my home number : 708-485-1930.

Thank you for your consideration and the best to you in the new year.

Sincerely,

William Mesich



**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

WILLIAM J. MESICH,

Plaintiff,

VS.

Case No. 03 C 50410

OFFICER WOODY,  
SARGENT MARTIN,  
OFFICER HOPKINS

Defendants.

To: Basileios Forutris  
2860 River Road #400  
Des Plaines, IL 60018

**PLAINTIFF'S RESPONSE TO DEFENDANT'S  
FIRST REQUEST TO ADMIT FACTS**

Plaintiff, WILLIAM MESICH, in his own person, provides his response to the Defendant's First Request to Admit Facts, to wit.:

1. The fact requested is admitted and further it is stated that the bike had reflectors and no more was required.
2. The fact requested is admitted and further it is stated that the bike had reflectors and no more was required.
3. The fact requested is denied.
4. The fact requested is denied.

**EXHIBIT**

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5. The fact requested is denied.
6. The fact requested is denied.
7. The fact requested is denied.
8. The fact requested is denied.
9. The fact requested is denied.
10. The fact requested is denied.

By,

William Mesich

William Mesich  
9010 Roach  
Brookfield Illinois

#### **CERTIFICATE OF SERVICE**

I, William Mesich, state under penalty of perjury and to the best of my knowledge that on December 30, 2004 I served upon Basileios Fortris the above Plaintiff's Response to the Defendant's Request to Admit by placing the same in the US Mails, first-class postage prepaid and properly addressed.

By,

William Mesich

William Mesich  
9010 Roach  
Brookfield IL 60513

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
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Police), Personally; SERGEANT MARTIN  
(Star #37 of the Belvidere Police), Personally;  
OFFICER HOPKINS (of the Belvidere Police),  
Personally,

Defendants.

NO. 03 CV 50410

DOCKETED

JAN 10 2005

**NOTICE OF MOTION**

**TO:** Mr. William J. Mesich, 9010 Roach, Brookfield, IL 60513

Mr. Theodore Liebovich of Liebovich & Webber, P.C.  
415 South Mulford Road, Rockford, IL 61108

**PLEASE TAKE NOTICE** that on January 28, 2005, at 1:30 P.M., or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge P. Michael Mahoney, or any judge sitting in his stead, in the courtroom usually occupied by him at the Federal Building, 211 South Court Street, Rockford, Illinois, and the Defendants then and there present the Motion of Defendants to Strike Plaintiff's Responses to Defendants' Request to Admit. A copy of such pleading is attached hereto and herewith served upon you.

**CERTIFICATE OF SERVICE**

The undersigned, one of the attorneys of record herein, certifies that the original **NOTICE OF MOTION** was filed with the Clerk of the U.S. District Court; and a copy thereof was served upon the foregoing, by depositing the same in the U.S. Mail, first-class postage prepaid on the 7th day of January, 2005.



BASILEIOS J. FOUTRIS, One of the Attorneys for  
Defendants SHANE WOODY and  
ANTHONY MARTIN

KNIGHT, HOPPE, KURNIK & KNIGHT, L.L.C.  
2860 River Road – Suite 400  
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